

REMARKS

Claims 1-3, 5-7, 9 and 13-18 are pending in the application. Claims 15 and 18 are amended and claims 16 and 17 are cancelled without prejudice or disclaimer.

No new matter is believed to have been added.

Applicants respectfully request entry of this Rule 116 Response because:

- (a) it is believed that the amendment of claims 15 and 18 puts this application into condition for allowance;
- (b) the amendments were not earlier presented because the Applicant believed in good faith that the cited prior art did not disclose the present invention as previously claimed;
- (c) the amendments of claims 15 and 18 should not entail any further search by the Examiner since no new features are being added and no new issues are being raised; and
- (d) the amendments do not significantly alter the scope of the claims and place the application at least into a better form for purposes of appeal. No new features or new issues are being raised.

The Manual of Patent Examining Procedures sets forth in Section 714.12 that "any amendment that would place the case either in condition for allowance or in better form for appeal may be entered." Moreover, Section 714.13 sets forth that "the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

I: OBJECTION TO CLAIM 15

In item 2, the Action objects to a duplicate number in claim 15. Claim 15 was amended taking the Examiner's comments into consideration.

In view of the above, it is respectfully submitted that the objection is overcome.

II: REJECTION OF CLAIMS 1, 2, 5, 6, 9, 13-16 AND 18 UNDER 35 USC § 102(e) AS BEING ANTICIPATED BY WOLFE ET AL. (US PAT. NO. 6,282,517, "WOLFE").

Applicants respectfully traverse this rejection.

Wolfe discloses a method and apparatus of making real time communication of purchase requests for buying cars. (see Abstract). In order to facilitate the sales of cars various dealerships are "assigned an exclusive sales region based upon a vehicle make and a zip code." (col. 7, lines 47-48). Wolfe further discloses that "[a]dvantageously, the record of exclusive dealer regions may be implemented as a matrix." (col. 8, lines 24-34). However, while dealers are assigned to these exclusive regions, the assignment is not necessarily based upon proximity of the dealer to the customer. Wolfe just compares the zip code of the customer to a zip code list for each of the dealers and returns results based on a dealer having been assigned to sales of that zip code. (see col. 7, lines 45-65). Therefore, there could be a dealer located closer to the customer, but not assigned to the customer's zip code and therefore the customer is never informed of a dealer in closer proximity.

In contrast, claim 1 recites "a processing unit identifying inventory information of near stores having an address near an address designated by the customer, determined by comparing a postal code whose first predetermined number of digits are the same as corresponding, first predetermined number of digits of a postal code of the address designated by the customer, and transmitting, to the client device in response to the request for product information, the identified product inventory information on an individual-store basis corresponding to the respective near stores selected on the basis of customer identification information received from the respective client device." (Emphasis added).

Claim 9 similarly recites "a processing unit identifying inventory information of near stores having an address near an address designated in customer identification information by the customer, determined by comparing a postal code whose first predetermined number of digits are the same as corresponding first predetermined number of digits of a postal code of the address designated by the customer." (Emphasis added).

Claim 18, as amended to independent form incorporating the limitations from canceled claims 16 and 17, recites that "... store proximity to the designated address is determined by the processor by first checking for an exact zip code match between the respective plurality of stores and the designated address, second checking for a match of the first n digits of the designated address zip code and the respective plurality of stores if there was not an exact zip code match, and third checking for stores having a zip code within a range of the first n digits of the

designated address zip code if there was not the exact zip code match and the first n digits of the zip codes did not match." (Emphasis added).

The Action alleges that Wolfe teaches, "identifying inventory information of near stores" because "both the buyer's and the dealer's search radius must overlap before a potential vehicle match is considered." (see Action at page 4, and Wolfe col. 8, lines 1-11). The examples discussed in Wolfe, include a dealer specifying an area and the user specifying an area and if an overlap occurs then the inventory process can occur.

However, this is not the same as the procedure of the claimed invention, of identifying inventory of stores near (claims 1 and 9 recite "near stores" and claim 18 recites "store[s] in proximity to") the customer based on the individual digits of postal codes. The system of Wolfe assigns exclusive dealer regions, which means that the inventory of a dealership that results from a search initiated by a customer may not be the closest to the customer. Indeed, the system of Wolfe would not inform the customer of stores which may be closer to the customer and sell the same inventory; rather, Wolfe only informs the customer of a store that has been assigned to that particular zip code and which may or may not be the store closest to the customer.

Thus, Wolfe does not teach or suggest identifying inventory of stores based on the proximity of the stores to the customer's address, but rather Wolfe teaches that the stores are assigned exclusive sales regions based on zip codes.

In view of the above, it is respectfully submitted that the rejection is overcome.

III: REJECTION OF CLAIMS 3, 7 AND 17 UNDER 35 USC § 103 AS BEING UNPATENTABLE OVER WOLFE ET AL. (US PAT. NO. 6,282,517, "WOLFE") IN VIEW OF THE EXAMINER'S OFFICIAL NOTICE.

Applicants respectfully traverse this rejection.

Specifically, in order to properly take Official Notice there must generally be some factual finding or evidence provided unless the facts to be asserted are capable of "unquestionable demonstration as being well-known." MPEP 2144.03. With respect to the limitation recited in claim 7 that a customer may place a hold on an item in one of the stores, the Examiner alleges that a "virtual shopping cart" is the equivalent of such a hold. However, the Examiner has provided no evidence to prove that such a "virtual shopping cart" was capable of unquestionable demonstration of being well known at the time the present application was filed on January 18,

2001. Applicants respectfully request that the Examiner submit an affidavit or declaration setting forth the specific factual statements to support the finding, if she wishes to persist in asserting her "Official Notice."

Dependent claim 3 is believed patentable over Wolfe for at least the same reasons as its respective base claim, as well as for any additional features recited.

IV: CONCLUSION.

If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date:

July 20, 2004

By:

H. J. Staas

H. J. Staas

Registration No. 22,010

1201 New York Ave, N.W., Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501